

### **REMARKS**

The Examiner has rejected all of the elected claim of Species C and the generic claims under 35 U.S.C. § 103(a) as unpatentable over *Akutsu*. The *Akutsu* reference is drawn to an invention having a wholly different purpose than Applicant's invention. Applicant's invention is designed to continually separate winnowings (which are portions of cut tobacco laminae deemed to be too large for cigarette making) from usable (or finer) tobacco particles, all within a stream of tobacco particles typically being transported to the rod making portion of a cigarette making machine.

*Akutsu*, in contrast, is directed to an apparatus which works in conjunction with a machine which prepares raw tobacco leaves for storage and maturization by stripping the lamina of the tobacco leaf from the tobacco leaf stems, a process commonly referred to as threshing. This process typically is performed long before the tobacco is ready for use in a cigarette making machine.

The *Akutsu* mechanism and process, removes a sample of the threshed lamina from the raw material treatment line (typically a conveyor) and feeds the lamina under a television camera which acts in conjunction with other electronics to sense the size of the lamina. The size data is then fed back to the thresher to control its operation in order to produce a lamina of desired size.

It should be noted that the wholly different purpose of the *Akutsu* apparatus results in significant distinctions in function and associated structure in comparison to Applicant's invention.

Firstly, *Akutsu* functions by sampling stripped tobacco laminae being transported on a conveyor from a threshing machine, for storage. There is no teaching or suggestion of Applicant's invention which continually measures size distribution within a stream of winnowers and usable tobacco particles in the process of making a smokable product such as a cigarette.

Secondly, the *Akutsu* device merely detects lamina size and feeds data back to a threshing machine producing the laminae to control its operation to produce acceptable size laminae for storage and maturization. There again is no teaching or suggestion of Applicant's invention in which size distribution in a tobacco stream headed toward a maker is continually monitored to operate an arrangement for separating cut tobacco winnowers from finer cut tobacco particles usable in the maker. The *Akutsu* device performs no separating function, and again does not operate continually on a stream of cut tobacco particles in a cigarette making process.

In short, the *Akutsu* device and process is taught for use at a wholly different stage and in a different environment, namely controlling threshing of raw tobacco headed to storage as compared to Applicant's invention directed to separating winnowers from usable tobacco particles in a cigarette making operation. *Akutsu* discloses a method for controlling the function of a machine for producing laminae from raw tobacco. The invention relates to a method for separating winnowers from usable tobacco particles in a cigarette manufacturing process. There is no analogy as between these totally disparate functions.

Applicant has amended the claims to more clearly define that Applicant's method functions continually on a stream of tobacco particles in the process of manufacture of a smokable product such as a cigarette; and that the object of the method is to separate winnowers from usable tobacco particles in that stream.

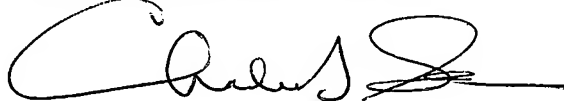
Accordingly, it is respectfully submitted that the claims drawn to Species C and the generic claims are in condition for allowance. Additionally, in view of the allowability of the generic claims, Applicant respectfully requests an action on the merits for the claims currently withdrawn. Such action is respectfully requested.

Applicant also requests that the Examiner contact Applicant's Attorney at the phone number below if there are any outstanding issues.

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Respectfully submitted,

MIDDLETON REUTLINGER

A handwritten signature in black ink, appearing to read 'Charles I. Sherman', with a stylized flourish at the end.

Charles I. Sherman, Reg. No. 22,998  
2500 Brown & Williamson Tower  
Louisville, Kentucky 40202  
Direct Dial:(502)625-2745  
Fax:(502)561-0442  
csherman@middreut.com